

FIRST REGULAR SESSION

HOUSE BILL NO. 949

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARRY.

Read 1st time March 8, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2237L.011

AN ACT

To repeal section 197.285, RSMo 2000, and to enact in lieu thereof one new section relating to hospital whistle-blower protections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 197.285, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 197.285, to read as follows:

197.285. 1. Hospitals and ambulatory surgical centers shall establish and implement a written policy adopted by each hospital and ambulatory surgical center relating to the protections for employees who disclose information pursuant to subsection 2 of this section. This policy shall include a time frame for completion of investigations related to complaints, not to exceed thirty days, and a method for notifying the complainant of the disposition of the investigation. This policy shall be submitted to the department of health to verify implementation. At a minimum, such policy shall include the following provisions:

(1) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall prohibit employees from disclosing information pursuant to subsection 2 of this section;

(2) No supervisor or individual with authority to hire or fire in a hospital or ambulatory surgical center shall use or threaten to use his or her supervisory authority to knowingly discriminate against, dismiss, penalize or in any way retaliate against or harass an employee because the employee in good faith reported or disclosed any information pursuant to subsection 2 of this section, or in any way attempt to dissuade, prevent or interfere with an employee who wishes to report or disclose such information;

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (3) Establish a program to identify a compliance officer who is a designated person
18 responsible for administering the reporting and investigation process and an alternate person
19 should the primary designee be implicated in the report.

20 2. This section shall apply to information disclosed or reported in good faith by an
21 employee concerning:

22 (1) Alleged facility mismanagement or fraudulent activity;

23 (2) Alleged violations of applicable federal or state laws or administrative rules
24 concerning patient care, patient safety or facility safety; or

25 (3) The ability of employees to successfully perform their assigned duties.

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27 All information disclosed, collected and maintained pursuant to this subsection and pursuant to
28 the written policy requirements of this section shall be accessible to the department of health at
29 all times and shall be reviewed by the department of health at least annually. Complainants shall
30 be notified of the department of health's access to such information and of the complainant's right
31 to [appeal to the department of health] **notify the department of health of any information**
32 **concerning alleged violations of applicable federal or state laws or administrative rules**
33 **concerning patient care, patient safety or facility safety.**

34 3. Prior to any disclosure to individuals or agencies other than the department of health,
35 employees wishing to make a disclosure pursuant to the provisions of this section shall first
36 report to the individual or individuals designated by the hospital or ambulatory surgical center
37 pursuant to subsection 1 of this section.

38 4. If the compliance officer, compliance committee or management official discovers
39 credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to
40 believe that the misconduct may violate criminal, civil or administrative law, then the hospital
41 or ambulatory surgical center shall report the existence of misconduct to the appropriate
42 governmental authority within a reasonable period, but not more than seven days after
43 determining that there is credible evidence of a violation.

44 5. Reports made to the department of health shall be subject to the provisions of section
45 197.477, provided that the restrictions of section 197.477 shall not be construed to limit the
46 employee's ability to subpoena from the original source the information reported to the
47 department pursuant to this section.

48 6. Each written policy shall allow employees making a report who wish to remain
49 anonymous to do so, and shall include safeguards to protect the confidentiality of the employee
50 making the report, the confidentiality of patients and the integrity of data, information and
51 medical records.

52 7. Each hospital and ambulatory surgical center shall, within forty-eight hours of the

53 receipt of a report, notify the employee that his or her report has been received and is being
54 reviewed.

55 8. The enactment of this section shall become effective January 1, 2001.